

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 09/936,557 Confirmation No.: 7117
Applicant(s): Kraft
Filed: January 2, 2002
Art Unit: 2174
Examiner: Peng Ke
Title: COMMUNICATION TERMINAL HANDLING MESSAGES INCLUDING
GRAPHICS

Docket No.: 042933/299170
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REPLY BRIEF UNDER 37 C.F.R. § 1.193

This Reply Brief is filed in response to the Examiner's Answer mailed on September 16, 2008, the Examiner's Answer being in response to an Appeal Brief filed on June 24, 2008. This Reply Brief addresses various points raised by the Examiner's Answer.

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3. ***Status of Claims.***

The present application currently includes claims 15-57, which all stand rejected. Claims 1-14 are canceled without prejudice or disclaimer. The rejection of claims 15-57 is being appealed.

6. ***Grounds of Rejection to be Reviewed on Appeal.***

(i) Claims 15, 29, 39, 40, 43, 45, 46, 49 and 51 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over International Publication No. WO 97/19429 to Deluca et al. (hereinafter "Deluca") in view of U.S. Patent No. 6,044,248 to Mochizuki (hereinafter "Mochizuki") further in view of U.S. Patent No. 6,421,707 to Miller (hereinafter "Miller").

(ii) Claims 52, 55 and 57 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Deluca in view of Mochizuki further in view of Miller further in view of U.S. Patent No. 6,032,025 to Sugio et al. (hereinafter "Sugio").

(iii) Claims 16, 19-25, 30, 33-38, 41, 42, 44, 47, 48, 50, 53, 54 and 56 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Sugio in view of Mochizuki further in view of Miller.

(iv) Claims 17, 18, 26, 27, 28, 31 and 32 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Sugio in view of Mochizuki further in view of Miller further in view of U.S. Patent No. 6,047,828 to Medina (hereinafter "Medina").

Appellant hereby appeals all of the rejections of Claims 15-57.

7. ***Argument***

As explained in the Appeal Brief at pages 6-17, claims 15-57 are patentably distinct from the cited references, taken individually or in combination. Accordingly, Appellant respectfully requests that the aforementioned rejections be reversed.

In reply to the Examiner's Answer, Appellant again submits that the cited references either alone or in combination, fail to teach or suggest the recited features of the claimed invention. The Examiner's Answer is, in large part, simply a repeat of the same arguments used in the Advisory Action and the Final Office Action in rejecting the currently pending claims. As such, Appellant respectfully submits that since the Appeal Brief pointed out the flaws in the Examiner's reasoning with respect to these rejections, no further discussion of the issues previously addressed need be presented herein. Rather, Appellant will direct the comments presented herein toward responding to the specific assertions from the *Grounds of Rejection* section of the Examiner's Answer (pages 11-15).

10. ***Response to Argument***

The Examiner's Answer responded to some of Appellant's arguments of section 7 of the Appeal Brief. These arguments were set forth under subsection headings A and C in the Appeal Brief and are labeled accordingly herein for sake of consistency.

A. **Claims 15, 29, 39, 40, 43, 45, 46, 49 and 51 are patentable over Deluca, Mochizuki & Miller**

Independent claim 15, for example recites, "[a] method for handling messages transmitted between communication terminals via a wireless network." The method comprises "generating a compound message including a text part and at least one graphical icon part." "[T]he compound message generation including reading a user inputted text part and converting the inputted text part into a predefined message text format," and "adding a graphical part to the message." "[T]he graphical part includ[es] a record for each of the at least one graphical icon part in a graphical format." The method further comprises "adding position information in the message defining a position of the at least one graphical icon part in the text part" and "transmitting of the message via the wireless network."

At pages 11-13 of the Examiner's Answer, the Examiner again asserts that the combination of Deluca, Mochizuki and Miller discloses the above features of claim 15. Particularly, the Examiner again asserts that Miller, alone or in combination with Deluca and Mochizuki, discloses "allow[ing] users to transmit a graphical part in a graphical format using electronic messages" and the Examiner again relies on previously cited portions of Miller, namely "col. 4, lines 25-40" in support of this assertion. (See pg. 13 of the Examiner's Answer) Appellant disagrees and submits that the Examiner is either misconstruing Miller, alone or in combination with Deluca and Mochizuki and/or giving Miller, alone or in combination with Deluca and Mochizuki, credit for more than it actually discloses. Appellant notes that the Examiner's Answer does not appear to provide any substantially new arguments but rather simply restates arguments that were set forth in the Final Office Action dated May 24, 2007 and in the Advisory Action dated September 5, 2007. Although the pages 11-15 of the *Grounds of Rejection* section of the Examiner's Answer slightly re-organizes arguments previously presented in prior Office Actions, such arguments were substantially addressed in the Appeal Brief.

The Examiner asserts that "the combination of Deluca and Miller teaches a message including a graphical icon part" and "Miller allows users to transmit a graphical object using electronic messages ... and ... by combining Miller[] ... with ... Deluca, the combination teaches a compound message with a text content and a graphical object that is attached to the message." (See pg. 12 of the Examiner's Answer) Even if it were assumed for the sake of argument (an assumption in which Appellant expressly disagrees) that the Examiner's interpretation of Miller, alone or in combination with Deluca and Mochizuki is correct, the combination still does not teach or suggest all of the features of claim 15. As an initial matter, Appellant notes that claim 15 recites "generating a compound message including a text part and at least one graphical icon part ... in a graphical format ... the message defining a position of the at least one graphical icon part in the text part; and transmitting ... the message" which "includes a text part and at least one graphical icon part" "via the wireless network." Miller, alone or in combination with Deluca and Mochizuki, in contrast to claim 1, does not teach or suggest transmitting any message including a text part and at least one graphical icon part in a graphical format in which the graphical icon part is *in a text part*, as would be required by the recitations of claim 15. Contrary, to the Examiner's assertion, column 4, lines 25-30 of Miller

and indeed all of Miller, alone or in combination, at best, describes that when a subscriber such as "Radhika, sends an e-mail with a number of attachments to" another subscriber such as "Thomas," the "three attachments, 404, 405 and 406 [are] in the **upper panel** of an "internet browser screen". The cited portion of Miller describes "FIG. 4(b)" of Miller and the cited portion explains that the first attachment 404 is a plain text file, the second attachment 405 is a common graphics file (i.e., a "ppt" file in FIG. 4(b)), and the third attachment is a sound file." As can be clearly seen in FIG. 4(b), the attachments 404, 405 and 406 are in the **upper panel** of the internet browser screen and are **not in the text** of the email message "shown in the scrollable text window 403" in which the text consists of "Hello Thomas, I am enclosing a copy of a recent Lucent press release Regards, Radika". (See FIG. 4(b) of Miller) Instead, the common graphics file i.e., attachment 405 is entirely separate and distinct and is not within the text of the email message. Additionally, FIG. 4(i) of Miller clearly shows that a graphics file attachment i.e., "4:PowerPoint (64K)" is not within "the text" of the "main body" as shown in FIG. 4(h) in which the text states "Hello Thomas, I am enclosing a copy of a recent luc".

In view of at least the foregoing, nowhere in Miller, alone or in combination with Deluca and Mochizuki, is there any mention, teaching or suggestion relating to any graphics file attachment (alleged graphical icon part) that has a position in text (i.e., "Hello Thomas, I am enclosing a copy of a recent luc") as defined by position information, as would be required by claim 15.

Appellant notes that the Examiner seems to ignore that claim 15 recites "generating a compound message including a text part and at least one graphical icon part ... in a graphical format ... and adding *position information* in the message *defining a position* of the at least one graphical icon part *in* the text part ...". On page 12 of the Examiner's Answer, the Examiner asserts that "combining Miller[] ... with ... Deluca, the combination teaches a compound message with a text content and a graphical object that is *attached to the message*." (emphasis added) However, as demonstrated above, Miller, alone or in combination with Deluca and Mochizuki, is simply altogether silent and does not mention, teach, or suggest at least adding any position information in a compound message that defines a position of a graphics file attachment (alleged graphical icon part) in text of a message that is transmitted via a wireless network, as would be required by claim 15.

On page 13 of the Examiner's Answer, the Examiner asserts that "[t]he combination of Deluca and Miller teaches 'adding a graphical part to the message, the ... graphical part including ... at least one graphical icon part in a graphical format, ... the ... graphical icon part in the text part.'" In support of such an assertion, the Examiner again relies on "Deluca, Page 5, lines 10-27." (See pg. 13 of the Examiner's Answer) Appellant disagrees. In contrast to claim 15, the cited portion of Deluca, alone or in combination with Mochizuki and Miller, at best, discloses messages that are transmitted to a data communication receiver 100 in which the transmitted message includes a numerical code (e.g., "TOM?#07") which is utilized to identify image data, that is prestored by the data communication receiver 100, with the code being selected by a message composer at a transmitting device 305 that sends the message to the receiver 100. Deluca, alone or in combination, at best, discloses that a receiver 100 actually stores a database 155 with alphanumeric codes (e.g., "#07") to retrieve corresponding images whereas claim 15 requires transmission of the compound message including the text part and at least one graphical icon part in a graphical format irrespective of any receiving device having a database or memory with images associated with codes that are used to display the corresponding images.

In contrast to claim 1, the codes of Deluca (e.g., "#07") and Mochizuki (e.g., graphic image code "01", "02"), for that matter, are merely text. Since the transmitting devices of Deluca and Mochizuki only transmit messages including alphanumeric codes consisting of text, as discussed at length above, the combination of Deluca, Mochizuki and Miller does not teach or suggest any *transmitted message* that includes a graphical icon part in a graphical format, as claimed. As such, the combination fails to teach or suggest any transmitted message which contains a "graphical part including ... at least one graphical icon part in a graphical format ... the at least one graphical icon part *in the text part*", as required by claim 15. Appellant notes that the Examiner appears to correctly concede that the codes of Deluca and Mochizuki only consist of text. For instance, the Examiner asserts that "Deluca teaches generating a message with a *textual content* and a graphical icon code" and submits that "even if a graphical icon code cannot be considered as a graphical icon part ... Miller ... transmit a graphical part in a graphical format using electronic messages." (See pgs. 12 & 13 of the Examiner's Answer) In contrast to claim 1, and as discussed at length above, transmitting "a graphical object that is attached to the message," as allegedly disclosed by Miller, (See pg. 12 of the Examiner's Answer) alone or in

combination, simply does not teach or suggest “position information in the message defining a position of the at least one graphical icon part *in* the text part” and “transmitting of the message” with “the at least one graphical icon part in the text part” “via the wireless network”, as required by claim 15.

In view of the foregoing, Appellant points out that Deluca and Mochizuki, alone or in combination with Miller, fail to teach or suggest transmitting any message that includes a “graphical part including ... at least one graphical icon part in a graphical format ... the at least one graphical icon part in the text part” of the message, as required by claim 15. And Miller, alone or in combination with Deluca and Mochizuki, fails to teach or suggest at least “position information in the message defining a position of the at least one graphical icon part in the text part and transmitting of the message” that includes the at least one graphical icon part in the text part “via the wireless network”, as required by claim 15. For at least these reasons, the combination is deficient and does not teach or suggest all of the features of claim 15.

Since independent claims 29 and 39 contain features that are analogous to, though not necessarily coextensive with, the features recited in independent claim 15, Appellant submits that independent claims 29 and 39 are patentable at least for reasons analogous to those submitted for independent claim 15.

Claims 40, 46, 52, 43, 49, 55, and 45, 51 and 57 depend either directly or indirectly from corresponding independent claims 15, 29 and 39 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 40, 46, 52, 43, 49, 55, 45, 51 and 57 are patentable for at least the same reasons given above for independent claims 15, 29, and 39.

Accordingly, Appellant respectfully requests reversal of the rejections of claims 15, 40, 46, 52, 29, 43, 49, 55 and 39, 45, 51, and 57.

C. Claims 16, 19-25, 30, 33-38, 41, 42, 44, 47, 48, 50, 53, 54 & 56 are patentable over Sugio, Mochizuki and Miller

Independent claim 16 requires “[a] communication terminal for handling messages comprising,” *inter alia*, “a user interface through which the user operates the terminal, the user interface including a display message editor application allowing the user to *generate a compound message including a text part and at least one graphical icon part*; and wherein the

controller generates the *compound message for being transmitted* via the *transceiver* including a *text part* in a predefined message text character format, a *graphical part including* a record for each of the at least one *graphical icon part* in a *graphical format*, and information in the message defining a position of the at least one *graphical icon part in the text part*.”

On page 14 of the Examiner’s Answer, similar to the rejection of independent claim 15, the Examiner asserts that Miller discloses “transmitt[ing] a graphical object within electronic messages” and asserts that by combining Miller[] ... with ... Sugio the combination teaches a compound message with a text content and a graphical object that is attached to the message.” In support of such an assertion the Examiner again relies on previously cited portions of Miller, namely, “col. 4, lines 25-40” of Miller. Appellant notes that analogous to independent claim 15, independent claim 16 recites “a compound message including a text part and at least one graphical icon part ... transmitted via the transceiver ... a graphical part including ... the at least one graphical icon part in a graphical format, and information in the message defining a *position* of the at least one graphical icon part *in the text part*.” As such, Miller, alone or in combination with Sugio and Mochizuki, does not teach or suggest all of the above features of independent claim 16 for at least the same reasons as those discussed above with respect to independent claim 15. Additionally, Appellant submits that Sugio and Mochizuki does not make up for what Miller lacks.

On pages 14-15 of the Examiner’s Answer the Examiner asserts that Sugio teaches generating a message with a *textual content* and a graphical icon code” and the Examiner relies on “col. 2, lines 30-42, col. 7, lines 29-60” of Sugio in support for such an assertion. (emphasis added) Even assuming for the sake of argument (an assertion with which Appellant expressly disagrees) that the Examiner’s interpretation of Sugio is correct, the combination still does not teach or suggest all of the features of claim 16. Like Mochizuki (and Deluca for that matter) the cited portion and indeed all of Sugio, alone or in combination, at best, discloses a pager that comprises a receiver for receiving an image designating code together with a message ... [and] a memory for storing a plurality of images, ... and based on the image designating code received by the receiver, selecting an associated image from [a memory of the receiver] and displaying the image together with the message.” Sugio, alone or in combination, at best, discloses that the image designating codes are alphanumeric codes (e.g., “portrait codes” “21” to “36”) which are analogous to the numerical codes of Mochizuki and Deluca. As such, the portrait image that is

ultimately displayed on the receiving device of Sugio is not contained in the message that is transmitted to the receiving device, i.e., the pager 4. In view of the foregoing, the messages of Sugio, alone or in combination, include only text and do not include a graphical icon part in a graphical format that is transmitted in a message, as would be required by the recitations of claim 16.

Appellant therefore submits that Sugio and Mochizuki, alone or in combination with Miller, fails to mention, teach, suggest or provide the motivation for a "compound message ... transmitted via the transceiver including a text part and at least one graphical icon part ... a graphical part including ... the at least one graphical icon part in a graphical format", as required by claim 16. Moreover, Miller, alone or in combination with Sugio and Mochizuki, fails to teach or suggest "information in the message defining a position of the at least one graphical icon part *in the text part*" as required by claim 16 for at least the reasons discussed above with respect to Miller in view of independent claim 15. Based on at least the foregoing reasons, the combination of Sugio, Mochizuki and Miller is deficient and does not teach or suggest all of the features of claim 16.

Appellant points out that the Examiner does not provide any response to the arguments relating to dependent claims 46-51 and 52-57 set forth on pages 15-17 of the Appeal Brief. As such, Appellant submits that the Examiner's arguments in the Final Office Action dated May 24, 2008 remain rebutted at least for the reasons set forth on pages 15-17 of the Appeal Brief.

Claims 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 41, 47 and 53 as well as claims 42, 48, 54 and 31-38, 44, 50 and 56 depend either directly or indirectly from corresponding independent claims 16, 25 and 30 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 41, 47 and 53 as well as claims 42, 48, 54 and 31-38, 44, 50 and 56 are patentable for at least the same reasons given above for independent claims 16, 25 and 30.

Accordingly, Appellant respectfully requests reversal of the rejections of claims 16-24, 26-28, 41, 47, and 53 as well as claims 25, 42, 48, 54 and 30-38, 44, 50 and 56.

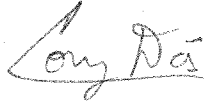
Thus, for all the reasons above, as well as those provided in the Appeal Brief, Appellant respectfully submits that the rejections of all claims based on the combination of these references should be reversed.

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CONCLUSION

For at least the foregoing reasons, as well as those presented in the Appeal Brief, Appellant respectfully requests that the rejections be reversed.

Respectfully submitted,



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